



POLICE DEPARTMENT

August 10, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Evangelos Galatas
Tax Registry No. 932677
109 Precinct
Disciplinary Case Nos. 83169/07 & 83727/08

The above-named member of the Department appeared before me on February 25, February 26, and April 8, 2010, charged with the following:

Disciplinary Case No. 83169/07

1. Said Police Officer Evangelos Galatas, assigned to the 109 Precinct, while on-duty, on or about March 27, 2007, within the confines of the 109 Precinct, did wrongfully and without just cause engage in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer initiated a confrontation with a Member of Service known to the Department that escalated into a physical altercation.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT

Disciplinary Case No. 83727/08

1. Said Police Officer Evangelos Galatas, assigned to the 109 Precinct, while on-duty, on or about August 20, 2006, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Police Officer engaged in a verbal dispute with another Member of Service, identity known to the Department.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONTACT

The Department was represented by Penny Bluford-Garrett, Esq., Department Advocate's Office, and the Respondent was represented by John Tynan, Esq.

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Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent has been found Guilty.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Sergeant Edward Lee and Police Officers Terrance Faber, Robert Albrecht, Ronald Thomas and Joseph Fong as witnesses.

Sergeant Edward Lee

Lee has been a sergeant for about a month. He is assigned to Police Service Area 5 in uptown Manhattan. Prior to that, he was assigned to the 109 Precinct in Queens, where he was for about four-and-a-half years. At the 109 Precinct, he was a police officer assigned to patrol duties. He was working a 3:00 p.m. to 11:35 p.m. tour on March 27, 2007. Lee agreed that he had an interaction with Respondent. On that day, Lee was assigned to a sector car in the 109 Precinct. Around 10:00 p.m., he went to the Fort Totten Park area to try and issue summonses. He was not assigned there. He saw an RMP¹ at that location already. Lee was called back to the station house because he and his partner, Police Officer Faber, had to finish a missing person report.

¹ Radio motor patrol vehicle

When Lee returned to the station house with Faber, Respondent confronted them. Respondent asked Faber why he was in the park. Lee was standing between Respondent and Faber. Lee told Respondent he did not have a right to ask about their location because he was not a supervisor. Respondent then said, "I don't need to fucking talk to you. I wasn't talking to you." Respondent started approaching Lee very aggressively. Lee was asked to explain what he meant by aggressively. Lee stated Respondent was walking quickly and seemed "very agitated."

This verbal altercation started outside the precinct. Respondent started walking up the stairs, directly at Lee. Lee was holding a bottle of Lipton Green Tea. As Respondent approached, Lee backed up to avoid him. At that point, some liquid spilled out of the bottle and hit Respondent. Respondent accused Lee of spitting on him, saying, "you fucking cocksucker, you fucking spit on me." Lee did not want any further confrontation, so he turned around and walked into the station house with Faber. Lee and Faber went into the room where Faber was looking for paperwork. When Lee came out, Respondent followed him and said he wanted to speak with Lee in the stairwell.

Lee said that he would prefer not to speak to Respondent somewhere else, "just talk to him right there where everyone can hear." Respondent insisted that they go into the stairwell and Lee acquiesced. The staircase was fairly narrow. Lee made it to about the third step before Respondent turned around and started yelling, "Cocksucker, motherfucker, you spit on me." Before Lee could do anything, Respondent, "Sort of reached with his right arm and grabbed me by the throat and kind of pushed me down the stairwell." Lee stumbled down the stairway and then out the doorway. Respondent was pushing Lee down the stairs when Police Officer Albrecht interjected. Lee was not sure

what direction Albrecht came from. He stood between Lee and Respondent and asked Respondent, "What the hell is wrong with you? How much time do you have on this job?"

Lee stated that he did not suffer any injuries as a result of Respondent's conduct. There were just a few scratches on his neck. Upon viewing Department's Exhibit (DX) 1A, 1B and 1C, three photographs of himself, Lee identified the scratch on his neck in the photograph as a series of red dots that go downward on the left side of his neck. Lee confirmed that the photographs were a fair and accurate representation of how he looked on the date in question. The photographs were taken by Queens North Investigations Unit in the Integrity Control Officer's office several hours after the incident.

As a result of this incident, Lee received a Schedule A Command Discipline ("CD") for being out of sector. Lee partnered with Respondent before. Lee had no personal issues with Respondent, but professionally, chose not to work with him. Lee told a supervisor that he would prefer not to work with Respondent. Lee explained that they had different styles of policing that were contrasting and did not make for an effective sector team.

On cross-examination, Lee agreed that Respondent was too aggressive for him. When asked if Respondent was too loud, Lee stated he cannot make that determination. Lee also stated that he does not know Respondent well enough to determine whether he is a "Type A personality." Lee was asked what he meant when he told the supervisor he did not like Respondent's style. Lee was referring to certain procedures that he and Respondent did not agree on. Lee described his own style of policing as very fair and stated he does not feel the need to raise his voice unnecessarily. Lee was asked if his

style clashed with the Respondent's style Lee replied that it is difficult to describe and they had different styles

Lee was asked if he was aware that Respondent received Charges and Specifications based on the allegations that were made by Lee on March 27, 2007 Lee agreed that he is aware that Respondent is facing disciplinary charges based on his complaint Lee was asked to explain what he did not like about Respondent that caused him to go to his supervisor to say that he did not want to work with him Lee replied that when they were in situations where aggression was not necessary, sometimes Respondent raised his voice unnecessarily and was rude to people they came across Lee never told Respondent his opinion that Respondent was too loud as a police officer Lee agreed that being a police officer is a position of authority He also agreed that training in the Police Academy and continued training at the precinct level involves "Verbal Judo " Part of that is to make sure that officers speak in an authoritative voice to get their point across in the application of the rules and regulations and the criminal code of the State of New York

Lee agreed that part of "Verbal Judo" is to talk in a loud direct voice to get someone's attention Lee was asked if the tone in which he was being addressed was a good example Lee replied that counsel's demeanor was different from Respondent's demeanor Lee stated that counsel was speaking to him as if they were having a conversation Lee stated that sometimes he felt Respondent was very quick to snap with his temper Lee agreed that he did not tell any civilian that they should file a complaint with the Civilian Complaint Review Board or call up the Internal Affairs Bureau about Respondent's discourteous behavior

Lee acknowledged that in his studying to become sergeant, and in his time as a police officer, he clearly was aware that the Patrol Guide mandated police officers to give civilians information to report misconduct by police officers. Lee did not know it was his job to tell civilians to make a complaint unless they asked him. Counsel pointed out that Lee just said he was aware that the Patrol Guide mandated police officers to inform citizens if they observed police misconduct. Lee then said he never observed any police misconduct.

Lee admitted that as a member of the Department, he is required to know the Patrol Guide. When Lee was asked if he is required to know every word of the Patrol Guide, he replied that he can only do his best to remember. Lee had never previously been involved in an incident like this resulting in a fellow officer receiving charges.

Lee did not look at his record to see if there were any impediments to his promotion to sergeant. Lee was asked if the patrol car he saw in Fort Totten Park was stopped. Lee did not recall if it was stopped, but the lights were on. Lee had point-to-point radios in his patrol car. Lee did not make any type of radio transmission to ask what the officers in the car were doing, nor did he make any attempt to see if they were taking police action.

Upon being asked if the RMP was moving, Lee stated that he believed the car was "kind of moving the other cars out of Fort Totten Park." Lee previously said the car was not moving, but now he agreed that it was moving. When Lee saw the car there, he realized he would not be able to write any summonses and started driving back to his sector. Lee agreed that Kissena Park is in his sector, but he did not recall if he looked to see if there were any summonses he could write there.

Lee mentioned that he is aware that the park has regulations that prohibit being in there after sundown. Lee agreed that he did not make any attempt to contact officers in the other patrol car in Fort Totten Park to see if they needed assistance. He was about 100 feet away from it and did not drive nearer to it. Lee was asked if he drove away at a high rate of speed when he left Fort Totten Park. Lee stated that he was not the operator of the vehicle, but he does not believe that they drove away at a high rate of speed.

When Lee and Faber got back to the station house, they encountered Respondent. Respondent spoke with Faber first. Lee agreed that Respondent was not talking to him. Lee said "something to Respondent about what are you talking about," even though Respondent was not talking to him. Lee agreed that he interjected himself between Respondent and Faber. Lee stated that he addressed Respondent in a conversational tone. Upon being asked whether Lee addressed Respondent in a "happy-go-lucky type of tone," or if he was "a little perturbed" as to why Respondent was asking where they were, Lee stated there was definitely "an air of curiosity." Lee was asked if he was upset, "a little put upon" that Respondent was asking about their location. Lee agreed he may have had that feeling.

Respondent told Lee, "I wasn't fucking talking to you." Lee did not feel hurt that Respondent used profane language with him. When asked if it would be fair to say that Respondent probably curses more than Lee, Lee responded that they have not had enough conversation for him to make that determination. Lee agreed that he worked with Respondent and knew him enough to ask not to work with him.

This conversation took place outside the building. Lee was entering the building and Respondent was outside the station house. Faber continued walking into the station

house. Once Respondent made the comment, Lee stopped at the top of the steps and Respondent was below him. Respondent walked towards Lee. His hands were not raised or pointing at Lee. Respondent did not put his shoulder down like he was going to ram or tackle Lee. Upon being asked if Lee was scared or startled, Lee stated he was surprised when Respondent walked towards him.

Lee agreed Respondent did not make any physical threats. Respondent walked up the stairs that are eight feet wide. He was not taking the steps two or three in a bound, he was coming up the stairs at a regular pace. Lee did note, however, that it was unusual that Respondent was walking directly at him. Lee found this to be slightly confrontational. Lee stated that he did not spit on Respondent. He unintentionally splashed Respondent with green tea. Lee was on duty at the time. He was not aware that having a drink or food while on duty and not being a part of his meal, is a violation of the Patrol Guide.

Lee agreed that Respondent had not made any threats or done anything to him, yet he spilled green tea on him. Lee did not apologize for this. Lee was not afraid that Respondent might tell somebody he was out of sector. Lee was then asked why he was concerned that Respondent wanted to know his location. Lee replied that he was not concerned, but curious as to why Respondent wanted to know his location. Lee did not feel the need to tell him.

At that point, Lee did not know that Respondent was the officer in Fort Totten Park. Upon being asked if he was in violation of the Patrol Guide by being out of his sector, Lee stated that he was not aware of that at the time. Lee stated that he had gone to that location to try to write summonses, which is a part of his daily police duties. Lee

was not told to go to Fort Totten Park at roll call. However, he was also not told to stay in "Sector Adam." When asked what he was told, Lee responded that it was not specified where he was to stay. Lee did not remember if he looked at the roll call printout to see what his assignment was, but he almost never did that as a police officer in the 109 Precinct.

Lee is now a supervisor. When asked if he would allow police officers to just go around and patrol the precinct, Lee responded that he would not have a problem with it if they had a justified reason. Lee stated that on a day-to-day basis, officers do respond to locations that are not exactly within their assigned sector. Lee stated that if you are responding to a job, you are supposed to let the central dispatcher know.

Lee was not scared when Respondent asked him to speak in private. Lee is 5'10" and weighs 155 pounds. The Respondent is similar in height and probably heavier than Lee. When Respondent asked Lee to speak with him in private, he used profane language and was fairly loud. Faber did not intercede at this point and Lee does not recall exactly where he was. When asked if Faber could hear Respondent speaking in a loud voice, Lee stated that he can only assume so, but he cannot remember Faber's whereabouts.

As of March 27, 2007, Lee had worked with Faber a little less than a year, but they were considered steady partners. Faber did not come to the aid of his partner. Respondent asked Lee a number of times to talk to him in private. Lee initially resisted, not because he was scared, he just felt it unnecessary to speak about the matter any further. Lee agreed that Respondent did not drag him in the stairwell, nor did he threaten or try to humiliate him.

Lee does not recall if he told Respondent to "fuck off" Lee agreed he has not apologized for spitting, spilling or unintentionally knocking tea on Respondent Lee does not remember if Respondent asked for an apology Lee does not think he has to apologize and Respondent has not apologized either

When asked if he used the phrase "cheap vulgarities," Lee stated he might have said that at his interview Upon being asked if Respondent used "all kinds of cheap vulgarities to get him into the stairwell," Lee replied that Respondent said, "I want to fucking talk to you right now Be a fucking man " Lee added that it was a profanity-laced request

Lee did not recall if there were non-police employees or civilians in the front desk area near the 124 Room at the 109 Precinct at the time Lee agreed that the 124 Room is only approximately 20 feet from the front desk There are supervisors at the front desk at all times Prior to entering into the stairwell, no supervisor came over and told Respondent to stop it Lee did not make a complaint to the front desk He followed Respondent into the stairwell on his own volition

Once he got into the stairwell, the first thing that Respondent said was something like, "you fucking spit on me " Lee does not recall exactly how he responded and remembers "just kind of staring at him " Lee does not recall his exact response He may have said something, but he does not remember

Lee was one step below the Respondent on the stairwell Out of the blue, Respondent grabbed Lee by the neck or throat Lee does not remember yelling or crying out When asked if Lee told Respondent to stop it, Lee responded, "Well, no I didn't say that either " Lee remembers Respondent grabbing him, himself backing up and

Respondent pushing him down the stairs towards the doorway Respondent held Lee's neck for about three seconds

Lee no longer had the bottle of green tea in his hands When Lee got to the bottom of the stairs, he kicked the door and Albrecht came in Albrecht did not have to physically separate Lee and Respondent Lee does not recall running off He kind of came out the door He remembered the desk sergeant looking at the door because it opened suddenly and Lee remembers looking toward him and saying, "this guy just attacked me " Lee did not have Respondent arrested Respondent was not suspended Lee did not go to the hospital and did not require any medical attention Lee never worked with the Respondent after that day

On redirect examination, upon being asked how many times he walked away from Respondent, Lee stated that he walked away from him only one time, when they were outside Respondent confronted him when he came out of the 124 Room Lee did not necessarily walk away from him

During recross-examination, Lee stated when he kicked the door open, there was a slight delay in time until Albrecht came in This delay was definitely less than 15 seconds Lee stated there was already some distance between himself and Respondent and there was no physical contact at the time Albrecht first entered the area

Lee has been a member of the service for about five years and one month He was assigned to "Sector Adam" on March 27, 2007 That sector is located on the southeast and southwest side of the precinct Fort Totten Park is on the northeast side of the precinct No part of "Sector Adam" shares a common boundary where Fort Totten Park is located

Police Officer Terrance Faber

Faber has been assigned to the Brooklyn Court Section for seven months. Prior to that, he was assigned to the 109 Precinct for approximately four years. He was working on March 27, 2007 and his tour was 3:00 p.m. to 11:35 p.m. Lee was his partner and they were assigned to "Sector Adam/Boy/Charlie/David." At about 10:00 p.m., he and Lee went to Fort Totten Park to try and issue summonses. When they arrived at the park, there was already an RMP there with the turret lights on escorting people out of the park. Faber could see Respondent and Police Officer Schmidt in the RMP. They were approaching each car and making sure they left the park. Faber watched for approximately 20 seconds and then was called back to the station house to fill out a missing person report. He and Lee were walking up the stairs when they encountered Respondent walking out of the station house.

Respondent said to Faber, "I have to talk to you." Faber replied, "Not right now, I have to do something." Faber then walked into the station house to the 124 Room to call the Missing Persons Squad. Faber does not recall how long he was on the phone with them. He heard a loud commotion in the hallway area which included "banging and yelling" but stated, "I really wasn't paying attention because I was on the phone." Faber hung up the phone and exited the 124 Room at which point Respondent and Lee were walking out of the stairwell. Faber did not recall if the two men appeared to be upset.

Upon being asked what happened next, Faber said several sergeants and a lieutenant in the room all approached Respondent and Lee, and Faber "didn't know what was going on." Faber then went back to the RMP because it was time to sign out. Faber did not see Respondent or Lee again that day. Faber got a CD for being out of sector. He

and Respondent did not have any negative interaction in the past. He was partnered with Respondent for two or three tours. When asked if he enjoyed being partners with Respondent, Faber simply replied, "It was okay."

On cross-examination, Faber stated that he never saw any physical interaction between Respondent and Lee. Faber stated he did not leave the park because he was not able to write any summonses. He left the park because he received a radio transmission requesting that he go back to the station house. The penalty that was imposed with his CD was "a warn and admonish." Respondent never told Faber why he wanted to talk to him. Faber was not concerned that Respondent might say something about Faber being out of his sector. Faber agreed that he has to get permission to leave his sector and Faber and Lee did not get permission. Faber agreed that Respondent was directing his comments solely at Faber.

Lee and Faber had been partners for a year and two months. They continued being partners after this incident until April 2009. Regarding the Respondent, Faber never had a problem with him before. He does not recall if he has ever been assigned to work with him since March 27, 2007. Faber did not hear Respondent yelling at Lee, nor did he hear Respondent using any profane language or "cheap vulgarities" towards Lee. Faber heard loud voices, but could not identify them. Faber did not see any injuries on Lee that day. Faber does not recall if Lee was holding a beverage, or if he inadvertently spilled tea on the Respondent. Faber never saw any physical interaction between Respondent and Lee. He did not see what occurred on the stairs outside the station house because he had already gone inside.

Police Officer Robert Albrecht

Albrecht has been with the Department for 19-and-a-half years. He has been assigned to the 109 Precinct since March 1997. Prior to that, he was assigned to the Bronx Task Force and the 44 Precinct.

Albrecht was working on March 27, 2007 and his tour was 9 37 p m to 6 00 a m. As he was walking toward the front of the station house, he observed Respondent and Lee entering the stairwell. He then heard a commotion, "some yelling and a lot of keys jingling and what sounded like somebody hitting a wall." Albrecht ran over to the stairwell and observed Respondent and Lee. Lee was probably on the second or third step and Respondent was a few steps above Lee. They were separated, but hearing the commotion, Albrecht "figured there was something going on, so that's why I stepped between them."

When he separated them, he asked what was happening. Lee pointed to Respondent and said, "He attacked me." Respondent's response was, "Because he spit in my face." At that point, the door was already opened. There were cops and a few sergeants behind Albrecht. The two were separated and questioned about the incident. Albrecht has never had any problems with Lee in the past, nor has he had problems with Respondent.

During cross-examination, Albrecht stated that he did not observe physical contact between the two officers. He never saw Lee on the ground. He heard yelling, but he was not sure who was yelling, or what they were yelling about. In his official Department interview, Albrecht said he asked Respondent, what happened or whether he hit Lee and Respondent replied, "Because he spit in my face." Albrecht did not mention

hitting at trial, or the Respondent's response about spitting. At trial, Albrecht simply said he heard yelling.

Albrecht did not have any further conversation with Respondent after Lee left the stairwell. After supervisors got involved, Albrecht did not have any further contact with Respondent. Upon being asked if he ever spoke to Respondent about this after the incident, Albrecht stated that he may have mentioned it when he got notified to attend the trial.

Police Officer Ronald Thomas

Thomas has been with the Department for 22 years. He has been assigned to the 109 Precinct for 12 or 13 years. Prior to being assigned to the 109 Precinct, he was assigned to the 114 Precinct in Narcotics. Currently at the 109 Precinct, he does patrol. He was working on August 20, 2006. His tour was 4:00 p.m. to midnight. On that day, Respondent asked him, "Are you putting papers in my locker? Messing with my locker?" Thomas said, "I'm not messing with your locker. I don't know what you're talking about. And that's when he [Respondent] said 'This shit is gonna stop. Stop fucking with my locker.'" Both Thomas and Respondent's voices were raised by this time. At this point, Police Officer Fong pulled Thomas to the side and pulled him out to the roll call room. Respondent did not tell Thomas why he thought he littered his locker. Upon being asked why Respondent would think that it was him, Thomas stated that he and the Respondent had disagreements in the past.

Prior to the August 2006 incident, Thomas and Respondent answered a call regarding an accident. Thomas stated, "We got a call for an accident, and I work it, like,

he's a young cop and I'm going to try to teach the young cop " After their arrival on the scene, Respondent did not call an ambulance for a girl whose legs hit the dashboard Thomas calmed her down and called an ambulance After EMS left, Thomas said, "Yo, what's your problem, man?" and Respondent said, "I'm not here to take your shit today, Thomas " Thomas told the sergeant what had transpired The sergeant sent Thomas to the hospital while Respondent stayed on the scene to wait for tow trucks When Thomas got back to the station house, Respondent started arguing again and Thomas stepped away

On another incident, Respondent and Thomas were driving in the car Thomas stated, "He was there for about a month or two, and all of a sudden he goes 'I want to drive ' And I'm like, 'you're not driving yet, man ' All of a sudden, he shut down on me He wouldn't answer the radio He wouldn't look out the window He wouldn't do anything He just stared into space like a little kid "

As a result of the verbal altercation with Respondent, Thomas received a Schedule B CD for yelling. Respondent and Thomas were never partners again

On cross-examination, Thomas was asked if the interaction between him and the Respondent lasted less than a minute Thomas stated he "didn't time it," but agreed it was not a long discussion He denied any involvement in littering Respondent's locker Thomas agreed Respondent did not get anyone else involved in the argument and no threats of physical force were used The conversation between him and Respondent did not disrupt roll call or any other business at the precinct

Inspections issued a CD to Thomas. Thomas stated, "I was sitting on the TS² one day and Inspections walked in and they said, 'you're losing a day'" Thomas did not have any other formal interview. He signed the CD in the Commanding Officer's office.

Police Officer Joseph Fong

Fong has been assigned to the 109 Precinct for approximately five years. Fong's tour on August 20, 2006 was 3:00 p.m. to 11:35 p.m. Directly after roll call, in the muster room, Respondent accused Thomas of dispensing trash in front of Respondent's locker. They were speaking in a slightly loud tone. They got into a brief dispute. Thomas walked out of the room about the same time Fong walked out of the room. That was the extent of Fong's interaction with Thomas and Respondent that day.

On cross-examination, Fong stated he did not recall if he directed Thomas out of the muster area. Fong stated that the 10 to 15-second dispute did not look like it was going to result in blows between the officers.

The Respondent's Case

The Respondent testified in his own behalf.

The Respondent

Respondent was appointed to the Department on July 1, 2003. After graduating from the Police Academy, he was assigned to Operation Impact at the 104 Precinct, which consisted of foot posts in certain high crime areas. After six months, he was assigned to his current command, the 109 Precinct.

² Telephone switchboard

On August 20, 2006, his tour was 3 00 p m to 11 35 p m Respondent stated that Thomas has been in the precinct since he has been there Prior to August 20, 2006, Thomas and Respondent worked together maybe 30, 40 times They never worked together after that day

On that day, Respondent approached Thomas because he found pieces of paper in front of his locker Respondent's locker was littered on a couple of occasions over a two-month span The paper was garbage or a variety of debris Respondent was under the impression that Thomas might have done it because there may have been some underlying tension between them Respondent did not recall his words verbatim, but he more or less asked Thomas to stop Thomas denied littering the Respondent's locker and might have said, "This is bullshit " Once Respondent realized it was going to get out of control, he walked away He does not remember any other officers intervening The entire confrontation lasted less than 30 seconds The Respondent did not go to any supervisors prior to this confrontation about what was occurring near his locker

Respondent's attention was then called to March 27, 2007 when he saw Lee at the precinct. Lee was entering the precinct as Respondent was exiting Respondent was not with anyone Respondent's partner had already exited the precinct and walked to the RMP Lee was with Faber Respondent asked to speak with Faber Respondent was assigned to "Sector Paul," which is located in the northeast section of the precinct A major portion of the area would be the Fort Totten area. The park closed at 9 00 p m so Respondent entered the park to disperse people

Respondent saw another RMP enter the park and come within 10 to 20 feet. Respondent was not able to determine if the vehicle was from his precinct, but he asked his partner, Schmidt, if it was one of their vehicles and Schmidt verified that it was. The RMP was perpendicular to their vehicle. It made a turn and exited the park at about 20 to 30 miles per hour. Respondent tried to make contact with the command concerning the identity or purpose of the other RMP in his sector. He called the TS and found out Lee and Faber were in the vehicle.

At approximately 11 00 p m , Respondent saw Faber and Lee entering the 109 Precinct. When asked to describe the steps that lead up to the front entrance of the 109 Precinct, Respondent stated that they are maybe six feet wide and there are about five or six steps leading up to the precinct. The landing on the top step leading to the doorway is eight or ten feet long and the width is four or five feet.

When Respondent saw Lee and Faber coming up the steps, he attempted to approach Faber. When asked why he picked Faber instead of Lee, Respondent stated he gets along better with Faber. Respondent said, "Faber, do you mind if I speak to you?" and Faber replied, "I can't talk to you right now." Respondent was not blocking Faber's path into the station house. Lee did not say anything at this point, but after the Respondent made a second attempt to speak with Faber, Lee said, "Fuck off Galatas."

Respondent said, "Excuse me?" Then out of nowhere, a liquid came splashing into his face. At first he just blinked his eyes. He said he was in a state of shock because "Officer Lee had just literally spit right in my face." Respondent started walking away toward the RMP. He took two steps toward the police car but then stopped and went back to the station house. Upon being asked what the purpose of going back there was,

Respondent repeated that he was in a state of shock. He could not believe what had transpired. When he went back into the station house, he saw Lee and asked to speak to him. Lee stated that he did not want to talk to Respondent, and Respondent repeated that he needed to talk to Lee.

Respondent and Lee started walking up the stairs. There is a stairwell to the left of the doors. They walked about three or four steps up. Lee was below Respondent. Lee is about the same height as Respondent, maybe 5'7" or 5'8". Respondent stated, "The first thing out of my mouth was, 'Well, what was that?'" He said Lee reiterated "Fuck off Galatas." Respondent had no idea where Faber was. There was no one else in the stairwell.

Respondent stated, "After he said, 'Fuck off Galatas,' I guess the first thing that I could say was, 'Nobody was talking to you.' All of a sudden, after I asked him what was up with that, he placed his hand on my stomach. He touched me on my torso area." Respondent pushed Lee's hand away from his torso area. As soon as Respondent pushed Lee's hand away from him, it seemed that Lee lost his balance on the staircase. Seeing that he was getting ready to fall, Respondent reached out and attempted to grab him. He attempted to reach Lee's left shoulder, but Lee slipped and fell down one or two stairs. His knees buckled and he fell toward the rail. He did not land on the ground.

At that point, Albrecht walked in and asked what was going on. Respondent does not recall his reply verbatim, but it was along the lines of, 'he spit on me.' Lee and the Respondent were in the stairwell for less than a minute. Once Albrecht came in, Lee was already by the landing. No one had to physically separate Lee and Respondent. After

supervisors got involved, Lee and Respondent were told to dress, and there was an interview

On cross-examination, Respondent stated that he thought Thomas was littering his locker because he did not have underlying tension with any other officers. Respondent never received a CD in the past for being involved in a verbal dispute with any officer other than Thomas. Respondent's locker was littered on a couple of occasions. He never reported it to a supervisor.

Regarding the incident with Lee, Respondent's partner that day was Schmidt. Respondent asked Schmidt if he saw who was in the car that entered the park and then left. Respondent explained his rationale for this, stating that he "found it very improper and unprofessional" that while he and Schmidt were taking police action that "another police car would actually come at such a close distance" and then not ask them if they needed assistance. This is improper, in Respondent's opinion. He did not report it to a supervisor. He mentioned that when he finds something improper among coworkers, the best approach is to speak to them as civil people.

Respondent saw the RMP number and called the TS operator to find out who was in the RMP. Respondent stated the purpose of wanting to know was to approach the officers because he was perplexed as to why that happened. At his official Department interview, Respondent stated he was being sarcastic when he asked Faber to speak with him. However, at trial, Respondent stated he was not being sarcastic or nasty. Faber's response was that he did not want to talk to Respondent right then. Upon being asked why Respondent felt the need to approach Faber and Lee about the incident, Respondent again reiterated that he found what they did to be unprofessional.

Respondent stated that Lee spit in his face Respondent agreed that Lee was holding a bottle of tea, but it was not the tea that splashed in his face Respondent said that he can distinguish between a bottle and the liquid coming from his lips At his interview, Respondent had stated Lee was "basically splashing my face " When asked with what, Respondent stated, "I thought it was water Apparently, I found out after the fact that it was some sort of iced tea " When asked if Lee splashed tea in his face or spit in his face, Respondent said he spit in his face Respondent did not go to a supervisor after this

Respondent had a job with Lee after this, but did not go to it because of everything that had transpired Lee told Respondent that he did not want to talk to him Respondent said he repeated that he needed to speak with Lee Respondent first asked Lee to speak inside the station house Respondent agreed that he did not want to speak to him right where they were Respondent wanted to speak to Lee somewhere else to save himself the embarrassment of having liquid all over his uniform as well as his face Respondent did not know if Lee was going to exit the building, or if he was working the next day After everything that transpired, Respondent felt it necessary to speak with Lee as soon as possible

Upon being asked if there was a possibility that liquid spilled out of the bottle and it was an accident, Respondent stated that he did not know what happened and that was the purpose of speaking with Lee Respondent clarified rather than spit, Lee spewed liquid out of his mouth and intentionally directed the liquid at him

When Respondent approached Lee, he said they could speak where they were Upon being asked if Respondent asked Lee to go upstairs, Respondent stated he did not

say that Respondent was reminded that at his interview, Respondent had stated that he asked Lee to go upstairs and talk and Lee declined, while Respondent said "no, upstairs " Respondent agreed that refreshed his memory of the conversation

Respondent stated that he grabbed Lee on the left shoulder after attempting to grab his arm Respondent agreed that it is a possibility he grabbed Lee's neck

Upon being questioned by the Court, Respondent agreed that Lee could have left the park because he would not be able to issue summonses, rather than deliberately leaving without offering his assistance Respondent agreed that at the time, he did not look at it from that perspective However, Respondent disagreed that he approached Faber and Lee differently due to this difference in perspective Respondent stated he was cordial when he approached Faber, but after Lee made a remark, Respondent was perplexed Respondent did not have words with Lee outside the station house, but acknowledged that there were words used in the stairwell, although he does not recall verbatim what they were

FINDINGS AND ANALYSIS

Respondent has two disciplinary cases In the first case he is charged with initiating a confrontation with a member of the service, to wit Police Officer Edward Lee, which escalated into a physical altercation In the second case he is charged with engaging in a verbal dispute with another member of the service, to wit Police Officer Ronald Thomas Respondent is found Guilty as charged

In the first case, evidence adduced at trial established that Respondent was working in Fort Totten Park on the incident date March 27, 2007 He was assigned to the

northeast section of the precinct. Sometime after 9 00 p m , when the park closed, he was with his partner taking police action. He had the RMP turret lights on as he and his partner dispersed vehicles from the park when he noticed an RMP pull into the park. He observed the RMP come perpendicular to his car and then it left the park. Respondent wanted to know who that was.

Sergeant Edward Lee testified that on the incident date, he was then a police officer assigned to cover "Sector Adam" on the southeast/southwest side of the 109 Precinct. He was working a 3 00 p m to 11 35 p m tour of duty. Sometime around 10 50 p m , he and his partner, Police Officer Faber, headed to the Fort Totten [northeast] section of the precinct to issue summonses. Lee testified that they were unable to issue the summonses because they received a radio call to return to the station house.

Once at the station house, Lee testified that Respondent confronted him and Faber. Respondent was speaking loudly to Faber as he demanded to know the location where they were working. Lee stated that he told Respondent he had no right to ask about their location and Respondent then said he was not talking to him as he began to walk "aggressively" toward him. Lee described being outside on the station house steps which were approximately two feet in length and approximately eight feet in width. Lee said he was holding a bottle of Lipton Green Tea at the time when he backed up. He explained that some of the drink spilled on Respondent who retorted that Lee spit on him. Lee said he turned to go into the station house behind Faber. He then went to the 124 Room where Respondent was waiting for him. Lee said he wanted to talk to Respondent there where everyone could hear, but the Respondent wanted to go in the stairwell, so he followed him.

Lee described being confronted verbally by the Respondent in the stairwell. He stated that Respondent called him a "cocksucker" and a "motherfucker" for spitting on him. Respondent then grabbed him by the throat and pushed him down some steps. Lee *stumbled down and was pushed out of the door that led to the stairwell and into the* command. Police Officer Albrecht, who was near the 124 Room, intervened by standing in between the two of them. Lee said that he shouted out that the Respondent attacked him. He also stated that he sustained some scratches. (See DX 1A-1C). A review of the photograph DX 1A depicts a frontal view of Lee. DX 1B depicts a series of red dots on the left side of Lee's neck. DX 1C depicts the red dots on Lee's neck but it also shows some slight redness at the base in the front of his neck.

Lee acknowledged that on March 27, 2007, when he went to the Fort Totten Park looking for summonses, he was out of his sector at that time. He testified that he received a Schedule A Command Discipline for being out of sector. He acknowledged that during the verbal part of the confrontation with Respondent, some of his green tea spilled on him, but he denied spitting on him and he noted that he did not apologize for the spill on Respondent either.

Faber had nothing to add. He testified that once he approached the steps to the station house, Respondent attempted to talk to him and he told him, "Not right now," as he proceeded into the station house and to the 124 Room. Although he heard some banging and yelling coming from the stairwell and then he saw Respondent and Lee appear from that area, he did not witness what transpired between them, if anything, and he was actually on the telephone regarding a missing person case.

Respondent testified that on the incident date, March 27, 2007, he was working "Sector Paul" in the 109 Precinct which encompassed the Beechhurst/Fort Totten area. Sometime after 9 00 p m , after the park closed, while trying to disperse people in the park from his police vehicle, he observed an RMP come within ten to 20 feet of him. He described the vehicle coming perpendicular to his car and then the driver made a right turn and exited the park. Respondent said he could not determine who was in the vehicle, but after conferring with his partner, he stated that it was an RMP from their command.

Respondent said that after dispersing everyone in the park, he came in contact with the vehicle again. He took down the vehicle number and contacted the telephone switchboard operator to ascertain who was in that vehicle. He was able to confirm that it was Lee and Faber in the RMP. Sometime later between 11 00 p m and 11 30 p m , Respondent encountered Lee and Faber walking up the stairs to the station house as he was exiting the station house. He attempted to approach Faber by stating, "Faber, do you mind if I speak to you?" Faber responded, "I can't talk to you right now." Respondent said he attempted a second time to speak to Faber but Lee, who was a few steps behind at that time, retorted, "Fuck off Galatas." Respondent said he responded, "Excuse me," and Lee stared at him and the next thing he knew, liquid came splashing into his face. Respondent said he blinked a few times because the liquid hit him dead center in the eyes. Galatas proceeded to walk away as he remained in shock that Lee spit at him. Respondent stated that he immediately began walking toward the RMP but stopped and decided to go back into the station house. Once in the station house, he observed Lee by the doors.

Respondent asked Lee to speak to him and Lee said that he did not want to. They both proceeded up the stairs. Once in the stairwell inside of the command, Respondent said to Lee, "Well, what was that?" and Lee reiterated the "fuck off" statement. Respondent replied, "Nobody was talking to you. What was up with that?" Respondent said that Lee then touched him in the torso area and his natural reaction was to push his hand away. So in a swaying motion from left to right he pushed Lee's hand away. The next thing he noticed was that Lee appeared to lose his footing, his knees appeared to buckle and he fell toward the railing. He did not hit the ground, but he noticed that he fell down one or two steps. The next moment, Albrecht walked in and asked what was going on. Respondent said he responded that Lee spat on him.

This instance is a matter of whose statement is more credible. Lee testified that Respondent grabbed him about the neck on the stairwell and had red dot markings on his neck following the incident to support this claim. Respondent claimed he merely waved his hand toward Lee who lost his footing on the stairwell and ended up by the railing. But that swaying action of the Respondent does not explain why Lee would have markings on his neck, or why Albrecht would feel the need to step in between the two of them. Respondent did admit during the course of his testimony that he may have touched Lee in the neck.

Neither Lee nor Respondent is operating with "clean hands." Lee testified that his drink spilled on Respondent. Yet he never thought to explain to Respondent that that is what had transpired or to apologize. Instead he allowed Respondent to get upset about being spat on. Respondent took it upon himself to investigate who came to Fort Totten Park and then confront those officers about where they were working and when he got an

unsatisfactory response, he probably got upset. Surely it was not within his duties to make such a demand, even though Respondent explained that if he saw another sector doing enforcement when he arrived in the park he would have spoken to the officers instead of simply leaving the park as Lee and Faber did. While the Court understands his perception, this still did not justify the confrontational manner in which he approached Faber and later Lee in the stairwell. The Court must note that Faber did not have any major disagreement with Respondent's contact with him, but Lee did. In addition, when questioned by this Court, Respondent did not consider another point of view, that Faber and Lee merely came in the park to issue summonses, and when they saw another RMP doing just that, they left. Both Faber and Lee testified that they left so abruptly because they received a call from the command to return to the station house and address a missing person matter.

It is the belief of this Court that Respondent, in his discontent with Lee and Faber coming to the park and not assisting him, coupled with his belief that Lee spit on him, did grab Lee about the neck and push him, which caused him to hit the door and fall back into the command resulting in Albrecht stepping in to separate the two officers.

Accordingly, I find Respondent Guilty of Specification No. 1 in Disciplinary Case No. 83169/07.

In the second instance, Respondent had observed paper he considered to be garbage or debris placed in front of his locker at the station house on more than one occasion. He made the decision that this had to stop. He decided to approach Officer Thomas on August 20, 2006 after roll call had ended. He chose Thomas because he was the only officer he had a little "underlying tension" with. Respondent could not recall his

exact words to Thomas but he said something to the effect that "this has to stop "

Thomas responded that he did not do anything, that Respondent had the wrong person and his voice began to raise Respondent said that once he saw Thomas "flapping his hands and raising his voice," he felt that the matter was going to get out of control so he walked away Respondent did not recall any officers having to intervene in this situation Respondent estimated that the entire confrontation lasted less than 30 seconds

Thomas's account of this incident was quite the same A short, verbal exchange that ended abruptly Although both Respondent and Thomas raised their voices, Respondent could not recall anyone intervening Thomas recalled Officer Fong coming over and separating them However, Fong testified at this proceeding and stated that the verbal dispute between Respondent and Thomas lasted ten to 15 seconds at best, that he and Thomas walked out of the room at the same time, and that he did not recall directing Thomas out of the room or separating them He also stated that he did not think the verbal exchange would have risen to a physical altercation Regardless of the length of time of this incident, this did amount to a verbal altercation that Respondent initiated Thomas received a penalty of a Schedule B Command Discipline and the loss of one vacation day for engaging in this verbal altercation

Accordingly, I find Respondent Guilty of Specification No 1 in Disciplinary Case No 83727/08

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined, see *Matter of Pell v Board of Education*, 34 N Y 2d 222 (1974)

Respondent was appointed to the Department on July 1, 2003 Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum

Respondent has been found Guilty of two Specifications in two separate cases in involving altercations with members of the service In the first instance, he is accused of initiating a confrontation with Lee which escalated into a physical altercation In the second instance he is found Guilty of engaging in a verbal dispute with Thomas It must be noted that the second incident with Thomas, which was a verbal altercation, preceded the first incident in time In the Thomas incident, the Respondent, who was the initial aggressor in that matter also, walked away and Thomas left the room so the incident did not escalate However in the Lee incident, the verbal exchange which originated outside of the station house escalated and Lee testified that Respondent grabbed him about the neck causing marks to appear on his neck He did not seek medical treatment but the photographs taken depict the marks on his neck

In both instances, Respondent is the initial aggressor He approached Lee in a confrontational manner, uttered profanity ("cocksucker") and then grabbed him about the neck In the second instance, he accused Thomas of something he could, at best, only speculate that Thomas had done This course of conduct is by no means condoned by this Court, however, it must be noted that the Court believes Respondent took physical action against Lee when he thought that Lee spit on him Albrecht testified that

Respondent said Lee spit on him when he separated them, and Lee testified that Respondent accused him of spitting on him and he never corrected that belief of Respondent nor did he apologize for allegedly spilling his green tea on him. Respondent had other recourse against Lee such as reporting him to a supervisor, but taking physical action against him was not the appropriate remedy.

In the second instance, Respondent confronted Thomas and accused him of littering in front of his locker without any proof of such. He said that they had differences in the past, but to address him in such a confrontational manner causing Thomas to in turn raise his voice was conduct prejudicial to the good order, efficiency and discipline of the Department. Again, Respondent could have made inquiries of Thomas in a manner that may not have resulted in a verbal altercation.

The Respondent's lackluster approach to addressing concerns with fellow members of the service is of concern. If he addresses his concerns with fellow members of the service in this manner, the Court can only wonder what his demeanor is like when addressing concerns with members of the public at large. Of course, that issue is not a matter before this Court.

The Assistant Department Advocate recommended a penalty of the forfeiture of 20 vacation days. She cited a couple of cases in support of this penalty including Disciplinary Case No. 83746/08, where a four-year member of the Department with no prior disciplinary record forfeited eight vacation days for engaging in a verbal and physical altercation with another member of the service while on duty and in uniform in front of the station house.

Accordingly, I recommend that Respondent forfeit 20 vacation days to resolve these two disciplinary matters

Respectfully submitted,



Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials


APPROVED
FEB 23 2011
RAYMOND W. KELLY
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK


From Assistant Deputy Commissioner – Trials
To Police Commissioner
Subject CONFIDENTIAL MEMORANDUM
POLICE OFFICER EVANGELOS GALATAS
TAX REGISTRY NO 932677
DISCIPLINARY CASE NOS 83169/07 & 83727/08

In 2007 Respondent received an overall rating of 3.0 "Competent" on his annual performance evaluation. In 2008 and 2009, Respondent received an overall rating of 3.5 "Above Competent." He has not been awarded any medals in his career to date.

████████████████████ On March 25, 2005, Respondent was placed in entry level probation monitoring.

On November 1, 2004 the Respondent received a negative 16 month evaluation. It was low in performance areas and behavioral dimensions. Aside from this matter, Respondent has no prior formal disciplinary record.

For your consideration


Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials